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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C.

In the matter of:)	
)	
)	AUDIT POLICY
Farstad Oil, Inc.)	NOTICE OF DETERMINATION
)	
Respondent.)	File No. AED/MSEB#4873
)	

Pursuant to the "Final Policy Statement on Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations" (60 F.R. 66706, December 22, 1995) ("Audit Policy"), the Air Enforcement Division of the Environmental Protection Agency ("EPA") hereby issues this Conditional Determination on certain violations disclosed to EPA by Farstad Oil, Inc. ("Farstad") of Farstad, North Dakota.

AUDIT POLICY

EPA issued the Audit Policy to encourage regulated entities to conduct voluntary compliance evaluations and to disclose and promptly correct violations. As an incentive for companies to undertake self-policing, self-disclosure, and self-correction of violations, EPA may substantially reduce or eliminate gravity-based civil penalties; however, EPA retains its discretion to recover any economic benefit gained as a result of non-compliance.

Where the disclosing party establishes that it satisfies all of the conditions listed below, as set forth in the Audit Policy, EPA will not seek gravity-based penalties for violations of federal environmental requirements:

1. Discovery of the violation(s) through an environmental audit or due diligence;
2. Voluntary disclosure;
3. Prompt disclosure;
4. Discovery and disclosure independent of government or third party plaintiff;
5. Correction and remediation;
6. Prevent recurrence;
7. No repeat violations;
8. Other violations excluded;
9. Cooperation.

Where the disclosing party establishes that it satisfies all of the conditions listed above with the exception of establishing that the violation(s) were found through a formal audit or due diligence, EPA will reduce gravity-based penalties for the violation(s) by 75%.

FINDINGS OF FACT

On January 31, 1997, and with supplemental information provided in April, 1998, Farstad disclosed to EPA that seventy-five (75) loads of additized gasoline transported from Canada by Farstad in November-December, 1996 were additized with a detergent additive that had not been properly registered with EPA until several weeks after the importation. Subsequent EPA investigation revealed that the subject additive was effectively registered in January, 1997. Section 80.155(a) of the detergent additive regulations, (40 C.F.R. subpart G), required at that time that all gasoline sold or transported to retail outlet(s) must have been additized in conformity with a detergent additive registration. Pursuant to § 205 of the Clean Air Act,

42 U.S.C. § 7524, violators of the detergent additive regulations may be liable for a civil penalty of up to \$27,500 per continuing day for each violation, plus economic benefit.

CONDITIONAL DETERMINATION

Pursuant to the Audit Policy, and based upon the information provided by Farstad, EPA makes the following determination for the disclosures identified above: Farstad disclosed violations of 40 C.F.R. § 80.155(a) to EPA on January 31, 1997, with supplemental information provided about these violations in April, 1998. Farstad conditionally meets the requirements of the Audit Policy for 100% elimination of gravity-based penalties for these violations, with the penalty elimination being conditioned upon the accuracy of the disclosures and Farstad's actual eligibility under the Audit Policy. Farstad gained no apparent economic benefit as a result of these violations, so no penalties for the violations based on economic benefit are being imposed.

Consistent with the purposes of the Audit Policy, EPA expects Farstad to institute, on a continuing and company-wide basis, the internal policies and procedures necessary to prevent recurrence of violations of environmental requirements.

U.S. Environmental Protection Agency

by: Bruce C. Buckheit
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